

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

PRESTON CATCHINGS,

Plaintiff,

v.

LT. STATES, et al.,

Defendants.

Civil Action No. 04-353 Erie

MEMORANDUM ORDER

This civil rights action was received by the Clerk of Court on November 19, 2004, and was referred to United States Magistrate Judge Susan Paradise Baxter for report and recommendation in accordance with the Magistrates Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrates.

The Magistrate Judge's Report and Recommendation [Doc. No. 16], filed on September 30, 2005, recommended that Defendant's motion for summary judgment [Doc. No. 12] be granted, and that the remainder of the action be dismissed pursuant to 28 U.S.C. §§ 1915(e)(2), 1915A, and 42 U.S.C. § 1997e(c) due to Plaintiff's failure to state a claim. The parties were allowed ten (10) days from the date of service to file objections. Service was made on Plaintiff by certified mail and on Defendants. No objections were filed. After de novo review of the motion and documents in the case, together with the Report and Recommendation, the following order is entered:

AND NOW, this 24th day of October, 2005;

IT IS HEREBY ORDERED that the Defendant's motion for summary judgment [Doc. No. 12] is GRANTED; and that the remainder of the action is dismissed pursuant to 28 U.S.C. §§ 1915(e)(2), 1915A, and 42 U.S.C. § 1997e(c) for failure to state a claim.

The Report and Recommendation [Doc. No. 16] of Magistrate Judge Baxter, filed on September 30, 2005, is adopted as the opinion of the Court.

s/ Sean J. McLaughlin
United States District Judge

cm: All parties of record
Susan Paradise Baxter, U.S. Magistrate Judge